


REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: October 21, 2015

TO: Honorable Members of the Economic Development Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No: 13-1493
Assignment No: 15-10-0810

Sidewalk Vending

SUMMARY

On May 13, 2014 the Economic Development Committee (Committee) considered a Motion (Huizar-Price-Buscaino, Attachment 1) instructing our Office, with the assistance of the Bureau of Street Services (BSS), City Attorney, County Department of Public Health and other City departments as needed, to report with recommendations on possible regulation that could effectively permit the sale of food and non-food items on City sidewalks and parkways (Council File No. 13-1493). The Motion also instructed our Office to report on the history and status of the Special Sidewalk Vending District program and a review of policies in other jurisdictions. At that meeting, the Office of the Chief Legislative Analyst (CLA) presented its first report which focused on initial stakeholder input, history of sidewalk vending in the City, and a brief comparative analysis of street vending models in other cities.

On December 2, 2014, the Committee considered a second CLA report which included a potential framework through which interested individuals would be able to obtain a sidewalk vending permit. Attachment 9 displays an updated version of the framework. The Committee requested our Office to report with additional information and additional public input. Subsequent to the meeting of December 2, the Chair of the Committee requested our Office to hold a series of meetings to seek community input.

In response to the Committee's request, this report includes the following sections: 1) History of the City's Sidewalk Vending Program, 2) City's Existing Sidewalk Vending Law, 3) Input from Community Meetings, 4) Survey Results on Sidewalk Vending, 5) Comparative Analysis of Sidewalk Vending Laws in Other Cities, and 6) Discussion of Sidewalk Vending Options.

1. History of the Sidewalk Vending Program

Discussion of a City sidewalk vending program dates back to 1989 when a City task force was created to study street vending. In 1990, Councilmembers Michael Woo and Robert C. Farrell introduced a Motion to allow open-air vending in both special districts and Citywide at a density of no more than two vendors per block. Staff reported on the pros and cons, and the Council ultimately adopted a district-based model.

Subsequently, various reports were prepared by the CLA, City Administrative Officer (CAO), Police Department, Public Works Department and others addressing staffing, fees and regulation of a sidewalk vending program. An Ad Hoc Committee of the Council was also formed to develop a sidewalk vending enforcement strategy.

In 1994, after extensive study, the City Council adopted the Special Sidewalk Vending District Ordinance (No. 169319), codified in Los Angeles Municipal Code (LAMC) Section 42.00 (m), which allowed for the formation of a maximum of eight Special Sidewalk Vending Districts within the first two years from the effective date of the ordinance (February 1994) and enforced by the Public Works Department in commercial areas. LAMC Section 42.00 (b), which prohibits vending on City sidewalks, was amended in 2013 to ensure that the City's current laws are consistent with court rulings which allow the sale of free speech items and performances.

In 1995, the City Council approved a petition to form the Special Sidewalk Vending District at MacArthur Park which allowed for maximum of 50 vendors. In 1996, the Board of Public Works issued a Request for Proposals (RFP) to select an agency to manage and designate vending locations within the vending district. The Council authorized \$235,308 in Community Development Block Grant funds for Cathedral Housing Economic Development Corporation for a one-year period from August 1, 1998 through July 31, 1999. Additionally, over \$140,000 was paid to a local manufacturer to design and create vending carts.

To date, the MacArthur Park Special Sidewalk Vending District was the only vending district formed, and it is no longer in existence. In 1999, the Council authorized a final funding allocation in the amount of \$232,000 for a total of \$467,308 to extend the sole source contract for sidewalk vending management.

A timeline for the sidewalk vending program is included in Attachment 2.

2. Existing Sidewalk Vending Laws (Attachment 3)

Sidewalk vending in the City of Los Angeles is currently governed by LAMC Sections 42.00 (b) and 42.00 (m). LAMC Section 42.00 (b) prohibits vending on City sidewalks except for items representing free speech and performances. LAMC Section 42.00 (m) allows the formation of Special Sidewalk Vending Districts in the City. The only district formed was the MacArthur Park Sidewalk Vending District and it is no longer in existence. Therefore, no vending on City sidewalks is currently permitted.

Sidewalk vending laws are currently enforced by the Los Angeles Police Department and the BSS. These agencies may issue warnings or citations depending on the circumstances. Citations issued by the BSS may result in a fine imposed by the courts of up to \$1,000 and/or jail time. Citations issued by the Police Department for certain violations of the LAMC may be handled through the Administrative Citation Enforcement (ACE) Program. The ACE Program is an alternative method of enforcement for violations of the LAMC. These violations currently include sidewalk vending. Instead of a citation or arrest where violators would be subject to criminal conviction with penalties that may include probation, fines or jail, violators receive an administrative citation which can be resolved through the payment of a fine and there is no resulting criminal record, probation, or threat of jail. The ACE Program is a pilot program in which only the Police Department and the Department of Animal Services currently participate.

Under LAMC Section 42.15 (Venice Beach Boardwalk Ordinance; Attachment 3) adopted by Council in December 2011, the City designated 205 spaces to allow restricted vending and artist performances.

- 1) Persons can engage in traditional expressive speech and petitioning activities, and can vend the following expressive items: newspapers, leaflets, pamphlets, bumper stickers, patches and/or buttons.
- 2) Persons can vend the following items which have been created, written or composed by the vendor or performer: books, audio, video, or other recordings of their performances, paintings, photographs, prints, sculptures or any other items that is inherently communicative and is of nominal value and utility apart from its communication.
- 3) Items with an expressive purpose that also have a nominal value such as housewares, appliances, jewelry, lotions, are banned.
- 4) Performers can perform.

The City also established noise regulations for the Venice Beach Boardwalk area. LAMC Section 42.15 is enforced by the Department of Recreation and Parks.

3. Input From Community Meetings

At the request of the Chair of the Economic Development Committee, our Office conducted a series of six meetings throughout the City to solicit community input on the issue of sidewalk vending. The meetings were held in Boyle Heights, Van Nuys, Downtown Los Angeles, South Los Angeles, West Los Angeles and Hollywood. All meetings were conducted in English with Spanish translation available. The meetings consisted of a 20-minute PowerPoint presentation (Attachment 4) followed by a public comment period ranging from 70 minutes to 130 minutes. All meetings were recorded by Information Technology Agency's Council Audio Unit. Table 1 depicts detailed information with regard to location and dates of the community meetings and the approximate number attendees, speakers, comment cards received and the number of surveys submitted.

TABLE 1

LOCATION	DATE	ATTENDANCE	# of SPEAKERS	# of COMMENT CARDS	# of SURVEYS
Boyle Heights	May 28, 2015	200	67	15	92
Van Nuys	June 11, 2015	150	57	59	86
Downtown LA	June 18, 2015	400	69	108	240
South LA	June 25, 2015	200	55	2	135
West LA	August 11, 2015	130	43	14	14
Hollywood	August 13, 2015	150	37	9	29
Online	-	-	-	-	181

The meetings were conducted by our Office and representatives from the Economic and Workforce Development Department, BSS, Los Angeles Police Department, the Recreation and Parks Department, the Office of Finance and the Los Angeles County Department of Public Health were present.

PowerPoint Presentation

The PowerPoint presentation included information such as current city laws governing sidewalk vending and the status of the policy discussions. In addition, the PowerPoint presentation contained potential enforcement levels and three potential sidewalk vending models for the community to consider. Model 1 consisted of maintaining the status quo, in essence, making no change to current law with the option of possibly changing the enforcement type and level. Model 2 consisted of a citywide option where regulated and controlled vending would occur on sidewalks throughout the City. Model 3 was a community-driven approach wherein the community would propose sidewalk vending plans and areas to City officials.

Information related to potential sidewalk vending regulations, possible educational options to inform community members, surveys, and comment cards to allow community members to submit written public comments were available at each meeting.

Sidewalk Vending Website

To provide improved access and information for the community, a website (sidewalkvending.lacity.org) was created which contained dates, time and location for all six meetings, all documents distributed during the meetings, links to existing city laws regarding sidewalk vending and audio recordings of all six meetings. The website also provides an option to allow Spanish speakers to view the website in Spanish. Audio recordings are available at: sidewalkvending.lacity.org.

Summary of Public Input

As shown on Table 1 above, 328 speakers provided verbal comments and 207 written comment cards were submitted during the community meetings. Additionally, stakeholders submitted written comments and documents by e-mail and some were directly sent to the City Clerk to be placed on the Council File.

Those who spoke in support of citywide sidewalk vending elaborated on the economic need for a source of income while others focused on the need for less harassment by law enforcement. Residents of Downtown emphasized the cultural impact of sidewalk vendors and the safe environment created on otherwise quiet

and lonely streets. Some residents questioned why brick and mortar dining establishments would be given access to expand their businesses to the sidewalks under recent Council action, yet, sidewalk vendors were prohibited from using the sidewalk for the same purpose.

Other stakeholders did not express support or opposition to a legalized sidewalk vending program. However, this group requested “opt-in” provisions to allow communities to decide whether vending makes sense in their communities and, in cases where such communities would opt to have a program, to include provisions that allow communities to decide the types of guidelines for locations, hours of operation and types of items sold. This group of stakeholders emphasized the need for requirements such as liability insurance, payment of fees, limits on the number of vendors per block, trash receptacles and a preference for stationary versus roaming carts.

Others raised concerns related to unfair competition to brick and mortar businesses, health concerns and insufficient enforcement resources.

As previously stated, all public comments may be accessed at the following web address: sidewalkvending.lacity.org.

4. Survey on Sidewalk Vending

A survey (Attachment 5) was provided at each of the six community meetings and was made available online in English and Spanish. The survey consisted of eight questions: two focused on the type of Sidewalk Vending Model, two focused on enforcement, two focused on location and two focused on the types of items to be sold. Collectively, there were 596 surveys completed at all six meetings. An additional 181 surveys were completed online. While efforts were made to accept one survey per responder per meeting, it is possible that respondents filled out surveys at more than one meeting and online.

Summary data from the survey can be found on Attachment 6. Generally, the majority of survey respondents at each of the six meetings preferred a citywide legal option to allow sidewalk vending with appropriate enforcement and well-defined parameters and regulations. Those who favored a citywide option preferred decreasing the maximum penalties for violations and most preferred enforcement by the BSS inspectors over police officers. This group also preferred to allow vending of food and non-food items on sidewalks and parks and in both commercial and residential areas. A smaller number of those who filled out surveys preferred that the Council continue to prohibit vending everywhere in the City.

Of the 181 Online Surveys completed, the majority of respondents preferred that the City continue to prohibit all vending on sidewalks and parks and that enforcement and penalties be increased, with dedicated staff for targeted enforcement.

5. Comparative Analysis of Sidewalk Vending Laws in Other Cities (Attachment 7)

Our Office conducted an analysis of street vending programs in the following 10 jurisdictions throughout the country:

Table 2 – List of Other Cities

1. Austin, Texas	6. Philadelphia, Pennsylvania
2. Chicago, Illinois	7. Portland, Oregon
3. Houston, Texas	8. San Francisco, California
4. New York, New York	9. Santa Ana, California
5. Pasadena, California	10. Santa Monica, California

Information was gathered with respect to types of regulations such as licensing and operational requirements, vending locations, placement requirements, permit caps, fees and enforcement. While all of the cities summarized in Attachment 7 have a process to allow vending on city sidewalks, some cities allow

vending citywide with restrictions such as “no vending” zones, permit caps, or only stationary locations. Others restrict vending to commercial areas, while others allow some vending in residential areas and parks. San Diego and Huntington Park prohibit sidewalk vending but may allow sidewalk vending during special events permitted by their respective city.

All the cities examined have provisions that require a Health Department permit for food sales prior to obtaining a city permit that allows vending on the public right of way. Some cities require payment of an initial application fee in addition to a permit fee. Others require a notification fee, fire department fee or inspection fees. See Attachment 7 for a full display of vending regulations in other cities.

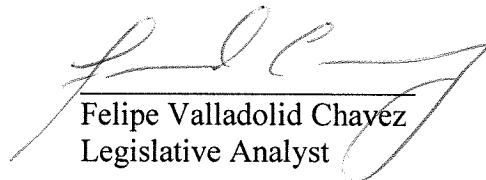
6. Discussion of Sidewalk Vending Options

A discussion of Options related to sidewalk vending begins on Page 6. These options serve as a guide to inform the Council of actions necessary for the development of sidewalk vending policy, should the Council wish to make changes to existing sidewalk vending laws. Each option opens with a discussion of the topic, issues raised by community members, comparisons with other cities and closes with a policy consideration for the Council. The options and decision areas are depicted graphically in Attachment 8.

The main topics within this section include: Sidewalk Vending Program, Options for a New Sidewalk Vending Program, Program Guidelines, Enforcement, and Penalties.

RECOMMENDATION

Changes to the Municipal Code Sections 42.00 (b) and 42.00 (m) regarding vending on sidewalks are policy matters for the Council’s consideration. This report provides various policy considerations. Staff should be directed to report, as necessary, in accordance with Council direction on this matter.



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SMT:fvc

Attachments: Attachment 1 Motion (Price-Huizar-Buscaino)
Attachment 2 Timeline of City of Los Angeles Sidewalk Vending Program
Attachment 3 Los Angeles Municipal Code Sections 42.00 (b), 42.00 (m), 42.13, 42.15, and 11(m)
Attachment 4 PowerPoint Presentation
Attachment 5 Survey on Sidewalk Vending
Attachment 6 Survey Results
Attachment 7 Comparative Analysis of Other Cities
Attachment 8 Current City Law and Options
Attachment 9 Sidewalk Vending Permit Framework

Discussion of Options

1. Sidewalk Vending Program

LAMC Sections 42.00 (b) and 42.00 (m) (Attachment 3) currently govern street and sidewalk vending in the City of Los Angeles. LAMC Section 42.00 (b) prohibits the sale of food and non-food merchandise on city sidewalks with the exception of free speech items and performances; LAMC Section 42.00 (m) allows the establishment of Special Sidewalk Vending Districts. These provisions are enforced by the Los Angeles Police the BSS. Should the Council wish to amend current law regarding vending on sidewalks citywide, in districts or a combination of both, procedures, rules, and regulations would have to be established. To assist with the decision-making process, our Office engaged in a variety of methods of public input solicitation and examined street vending programs in other jurisdictions.

Attachment 8 is a graphical representation of the policy considerations if the Council determines to make changes to the LAMC regarding vending on City sidewalks. If the Council wishes to proceed with making changes to the sidewalk vending laws, the Council should consider the model it wishes to implement. The three options for a new model presented in this chart include: 1) Citywide, 2) Special Districts, and 3) Combination of Citywide and Special Districts. The Council may also opt to make no changes.

All three models would require further consideration of issues, included in the chart, with regard to fees and licensing requirements, type of item sold, placement restrictions, operation regulations, permit cap, mobile versus stationary vending, no-vending exemptions, equipment specifications, program eligibility guidelines, and training and technical assistance.

The chart also includes an enforcement component for the Council's consideration relative to enforcement of a potential sidewalk vending program. Some issues to consider include whether the Council desires a proactive type of enforcement rather than complaint-driven enforcement.

Below is some of the information gathered by our Office through the public input process and examination of street vending models in other cities.

Community Input

Representatives from Los Angeles Business Improvement Districts (BID) and other organizations favor a sidewalk vending program that allows communities such as Neighborhood Councils or BIDs to "opt-out" or "opt-in." Stakeholders expressed that while sidewalk vending makes sense in some communities, it does not make sense in others communities (e.g., neighborhoods, commercial areas, residential areas).

The Fashion BID and the South Park BID both requested "opt-in" provisions to allow neighborhoods to decide locations and have more input as to the types of regulations appropriate for such area. These groups also preferred stationary over roaming carts. The Fashion BID suggested that a cap on the total number of permits be established, that the City examine the possibility of having vendors pay into the BID to cover some of the costs for service, indemnify businesses from liability for sidewalk vending related incidents, and that the City consider a pilot program before launching a citywide program.

The South Park BID requested rules for mobile vendors such as food trucks and to limit the number of trucks on each street. This group suggested that any ordinance include provisions with regard to liability insurance, fees, and hours of operation. The BID also suggested that technical assistance programs be established to assist small vendors.

The BIDs, CCA, Neighborhood Councils, the Los Angeles Street Vendors Campaign, vendors, residents, business owners and other groups all raised concerns about the need for requirements to keep the areas clean and

safe. Business owners expressed concerns about competition and the loss of revenue along with concerns about abandoned equipment and trash in the surrounding areas.

The CCA provided options for potential sidewalk vending zone models for Council consideration.

- 1) Community Supported Vending Zones (Model A)
- 2) Community Supported Vending Zones with provisions for Distinct Areas (Model A2)
- 3) Community Supported Vending Zones Including Food Trucks

All three models provided by CCA are district-based, also referred to as the “opt-in” option throughout this report. In essence, Councilmembers, Neighborhood Councils, or other stakeholders may initiate a Vending Zone and propose boundaries. CCA proposes that Vending Zones (districts) only be allowed in commercial areas with certain areas of the City declared “No Vending Zones” by the Council. Under the CCA proposal, establishing a Vending Zone would require pre-approval by 20 percent of the property and business owners on each block of a vending zone. Additionally, once a Vending Zone is established, individual vending permit applicants would be required to obtain the written consent of property owners adjacent to where the vendor wants to operate. Some of the provisions in the CCA proposal are similar to the provisions under the Special Sidewalk Vending District program established under LAMC Section 42.00 (m).

Many community groups, including those from the University of California, Los Angeles (UCLA), the University of Southern California (USC) and Occidental College oppose a district-based sidewalk vending model citing the MacArthur Vending District as a failed example of a district-based program. In the case of LAMC Section 42.00 (m), groups from educational institutions argued that the process for the formation of districts was cumbersome and included too many approval levels. They also noted that the level of enforcement within the districts may have discouraged vendors from participating and found it easier to engage in vending outside the districts.

The Los Angeles Street Vendors Campaign supports the creation of a citywide sidewalk vending program. The LA Street Vendors Campaign states that a citywide permit system would not imply a blanket legalization or an unregulated vending program. The LA Street Vendors Campaign states that limiting the number of vendors or confining the trade to designated zones will only discourage or impede compliance. The Los Angeles Street Vendors Campaign prefers permitting sidewalk vending on both sidewalks and parks with “common sense” sidewalk placement restrictions and opposes a district-based sidewalk vending program. The La Street Vendors Campaign recommends the creation of an accessible and easy-to-navigate permit application process, establishment of meaningful rules to protect the health and safety of the community, provide incentives for healthy food sales, provide assistance to community-based organizations to provide technical assistance, education, financial support and other capacity-building services to vendors and allow permit exemption for small scale vendors.

Input was provided by individuals and residents representing themselves and in some cases representing other organizations. Some groups such as the CCA, the Valley Industry and Commerce Association (VICA), the Sherman Oaks Homeowners Association, the Hollywood Chamber of Commerce and several BIDs such as the Hollywood Entertainment BID and Neighborhood Councils such as the Hollywood West Neighborhood Council favored an “opt-in” approach through which sidewalk vending regulations, enforcement and implementation would be established only in communities that desired vending in their respective areas. The Hollywood Hills West Neighborhood Council expressed concerns around the Hollywood Bowl and VICA in particular expressed concerns over the number of permits potentially issued, taxes paid by vendors and the need for regulation, enforcement and monitoring of the program.

Other groups such as the Los Angeles Street Vendors Campaign, the Los Angeles Food Policy Council, Public Counsel, the Coalition for Humane and Immigrant Rights (CHIRLA), Union del Barrio, La Raza Unida, East L.A. Community Corporation, Leadership for Urban Renewal Network, other organizations and community members favored the establishment of citywide sidewalk vending program. Members of the Reseda Neighborhood Council expressed support of a citywide sidewalk vending program. The Los Angeles Food

Policy Council and current sidewalk vendors expressed the need for a program that allows vending on City sidewalks and in parks and also provides for humane enforcement.

The Los Angeles Food Policy Council, the Community Health Councils and representatives from Occidental College have advocated for a citywide sidewalk vending program that includes incentives for vendors who choose to engage in the sale of healthy food items. These advocates expressed the need for healthier food choices in areas of the City that lack healthier food options.

The California Food Policy Advocates (CFPA) urges that the City create a policy that will take into account the impact that sidewalk vending currently has on school nutrition and school safety. CFPA believes that their efforts to provide Los Angeles students with the nutrition needed to excel academically could be undermined by sidewalk vending near schools.

In a letter dated August 20, 2015, Film L.A., Inc., states that “current [City] practice is that film permits and other temporary-use City permits supersede normal activity when issued by the City of Los Angeles in the public right of way.” Film L.A., requests that the Council consider having language in the proposed street vending ordinance to maintain the ability to obtain temporary use permits for filming.

Los Angeles County

Los Angeles County requires a health permit for the sale of food items. While not all food items require preparation and storage in a commissary, any equipment used, such as push carts, would require inspections and would have to be stored at a commissary. Pursuant to the California Homemade Food Act (Cottage Foods), individuals are allowed to prepare some non-potentially hazardous foods in private kitchens. These items include baked goods, without cream, custard or meat fillings, such as breads, biscuits, cookies, pastries and tortillas; candy, such as brittle and toffee, chocolate-covered non-perishable foods, such as nuts and dried fruits, dried pasta, and fruit empanadas, fruit pies and fruit tamales. A home kitchen can be used for the preparation, packaging, storage and handling of cottage foods.

The County issues two types of permits under the Cottage Food Program: Class A and Class B. With a Class A permit, a vendor may only sell cottage foods directly to the consumer from the home, bazaars or temporary events and farm stands. With a Class B permit, vendors may also sell to restaurants, grocery stores and food trucks. The annual fee for a County Health Class A Cottage Food Permit is \$103. The annual fee for a Class B permit is \$254.

Potentially hazardous foods are those that require time and temperature control to limit pathogenic micro-organism growth or toxin formation. Los Angeles County refers to “food carts” as Unenclosed Mobile Food Facilities. These facilities handle non-prepackaged food that require development of written procedures for food handling and cleaning/sanitizing of food contact surfaces and utensils. These guidelines require County approval.

The Los Angeles County fees for a low risk Mobile Food Cart is \$342 annually and \$671 annually for a high risk Mobile Food Facility Cart. Additionally, there may be plan review fees and commissary fees depending on the types of foods sold.

Other Cities

In cities where sidewalk vending is allowed, sidewalk vending models differ with respect to vending locations where vending is permitted or prohibited. While New York City permits vending citywide, it has a process for exempting specific streets. For example, according to an American Planning Association issue of Zoning Practice, “general vending is legal on six different sections of New York’s Avenue of the Americas and the permitted hours vary in each.” The number of permits is capped which limits the number of vendors per borough. Chicago, which recently amended its existing push cart vending program to allow the sale of foods on its sidewalks, prohibits vending in certain areas of the city such as Wrigley Field and the Medical Center District.

Pasadena allows stationary vending in city parks and allows roaming vendors in residential areas. Vendors in city parks are limited to four hours and vendors in residential areas may roam, but stopping to conduct a sale must not exceed five minutes. Portland only allows sidewalk vending in commercial zones and vendors are limited to one per vending area. A vending area is defined as the area from midpoint of one block to the midpoint of the adjacent block.

All the cities examined have provisions in place that require a permit issued by a Health Department for food sales. Some require payment of an initial application fee in addition to a permit fee. For example, the City of Austin charges \$150 for an application in addition to a \$650 fee for an annual permit. Individuals who wish to provide a service at a park, such as yoga or group exercise, must pay a \$50 registration fee plus \$.45 per client per day for a maximum of \$1,500 per 6-month period. Austin allows vending on permanent locations in the right of way and has “No Vending Zones” in areas such as the Convention Center and the Palmer Events Center. Additionally, Austin requires the notification of adjacent businesses as part of the permit approval process.

With respect to the types of items sold, restrictions vary from city to city. Some only permit the sale of ice cream while others allow the sale of other foods, provided there is compliance with health requirements. All cities examined require a health permit for food sales. The health permit serves as a testament that the vendor has complied with commissary requirements, obtained a food education certificate and an inspection process.

Prior to September 24, 2015, Chicago only allowed the sale of desserts and whole fruits and vegetables on city sidewalks. However, on September 24, 2015, the Chicago City Council adopted a resolution that would allow the sale of other food items on City sidewalks. Vending on the sidewalks is prohibited without a permit and vending is restricted and/or prohibited in certain areas of the city such as Wrigley Field and the Medical Center District. Chicago charges \$350 for a Mobile Food Vendor License, \$275 for a Mobile Desserts Vendor License, and \$100 for a Peddler License. Seniors, veterans and the disabled pay a reduced rate of \$50 for a Street Peddler license. All of these licenses are issued for a two-year period.

Los Angeles City

As previously stated, the City currently prohibits sidewalk vending, but allows for districts to be formed. Proponents have stated that the process is cumbersome; opponents have stated that more enforcement is needed. The fundamental question before Council is whether to modify the existing law. If so, there are a number of rules and regulations that would need to be included in the new policy with regard to the operation of the desired sidewalk vending program relating to time, place and manner, as depicted in Table 3. To the extent Council wishes to provide policy direction on the below categories, it can be included in the drafting of the new policy. Please note that this is not intended to be an exhaustive list of issues.

All applicants would be required to obtain the necessary documents such as State of California Seller’s Permit, City Business Tax Registration Certificate, and liability insurance. Those who choose food items would also be required to obtain a County of Los Angeles Health Permit. Additionally, approval and a permit by the Recreation and Parks Department would be required if vending is desired in a City park.

Table 3- Categories of Rules and Regulations for Sidewalk Vending

<ol style="list-style-type: none"> 1. <u>Permit Process</u> <ol style="list-style-type: none"> a. Lead Agency b. Inspections c. Notification/Sign Off d. Eligibility 2. <u>Licensing Requirements</u> <ol style="list-style-type: none"> a. Fees b. Health Permit c. Liability Insurance d. State Seller's Permit e. City Permits 3. <u>Placement Requirements</u> <ol style="list-style-type: none"> a. Distance from street furniture b. Distance from exits and entryways c. Distance from businesses d. ADA Compliance e. Distance from crosswalks and curbs f. Distance from other vendors g. Mobile versus Stationary 4. <u>Operational Requirements</u> <ol style="list-style-type: none"> a. Days and hours of operation b. Design and Dimension Requirements c. Receptacle and Clean Environment 	<ol style="list-style-type: none"> 5. <u>Vending Locations</u> <ol style="list-style-type: none"> a. Citywide b. Citywide with exemptions c. Designated areas only d. Commercial versus Residential 6. <u>Permit Caps</u> <ol style="list-style-type: none"> a. Limit total number of permits. b. Limit number of permits per area, district, corridor, or block. c. Limit number of permits per applicant. 7. <u>Type of Item Sold</u> <ol style="list-style-type: none"> a. Merchandise (Non-Food Items). <ol style="list-style-type: none"> i. New versus Used. ii. Area specific items. b. Food Items <ol style="list-style-type: none"> i. All Foods. ii. Pre-packaged foods. iii. Cottage Foods. iv. Healthy Foods. v. Fruit and Vegetables. c. Pre-approved list of items.
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**ACTION 1: Should the Council amend current laws
regarding vending on sidewalks?**

ACTION A

If no change, no further action required.

OR

ACTION B

If no change to existing ordinance, but consider other enforcement options, see Action 4 Discussion:
Monitoring and Compliance.

OR

ACTION C

If yes, the City Council should consider which model for a new sidewalk vending program should be adopted.
See Action 2 Discussion: Options for a New Sidewalk Vending Program.

2. Options for a New Sidewalk Vending Program

Citywide Sidewalk Vending Program

A citywide sidewalk vending program could potentially allow sidewalk vending on all City sidewalks with the exception of sidewalks that do not meet ADA guidelines or could present public safety issues. Alternatively, the City could establish “No Vending Zones” near areas such as LA Live, the Hollywood Bowl, Dodger Stadium or other areas with high congregations of people where vending could present public safety concerns.

Chicago, for example, requires street vendors to be at least 1,000 feet away from Wrigley Field. Peddlers (vendors with no carts) may vend within the 1,000 foot radius.

The County of Los Angeles issues permits to Personal Hawkers. Personal Hawkers are vendors who are permitted to vend foods that are not potentially hazardous and are pre-packaged and can be carried on their body. The cost of the County permit is \$195 per year. LAMC Section 42.13 provides that, notwithstanding the provisions of Chapter 8 of the LAMC related to Traffic, no person shall peddle fruits or vegetables on any street or sidewalk other than between the hours of 8 a.m. and 8 p.m.

San Francisco and Portland issue citywide licenses and permits to interested vendors in commercial areas. Portland has a preapproved list of items to be sold on city sidewalks such as food and beverages for immediate consumption, fresh cut flowers, inflated balloons, jewelry, maps, shoe shining, and umbrellas. Requests to sell a different item requires approval from the City Engineer. Vendors are required to submit a letter of consent from abutting businesses and must indicate the location for which they are seeking a permit.

San Francisco has a citywide policy with “no vending” zones. Vending around schools is prohibited with some exceptions where vendors are encouraged to vend around schools that have limited food options in their surroundings. San Francisco has an online interactive map where interested vendors can search for available locations.

The CLA conducted a survey during six community meetings held between May and August regarding sidewalk vending. Of those who filled out a survey, most preferred a citywide sidewalk vending program.

With guidance from the City Council, a City department would be tasked with developing specific rules and regulations associated with licensing and operating requirements, location parameters, types of items to be permitted, and whether stationary or roaming would be allowed.

District-based Sidewalk Vending Program

A district-based program would allow sidewalk vending only in defined areas within the City. On January 4, 1994, the City Council adopted the Sidewalk Vending Ordinance which allowed the establishment of up to eight Special Sidewalk Vending Districts in commercially-zoned areas only within the first two years subsequent to the effective date of the Ordinance. On November 8, 1995, the City Council adopted an Ordinance to establish a Special Sidewalk Vending District at MacArthur Park. The process for establishing a district under the ordinance has been described as cumbersome by members of the community inasmuch as the process called for several approval levels and many vendors found it easier to vend outside the districts than within the district.

Under the Venice Beach Boardwalk ordinance adopted by Council on December 13, 2011, the Council designated 205 spaces for the purpose of allowing the sale of expressive items such as newspapers and bumper stickers; books, audio, video or other recordings that have been created by the composer; and, performances (LAMC Section 42.15). The spaces are available on a first come, first served basis beginning at 9:00 a.m. and concluding at sunset. Sunset is defined as the time at which the sun’s disk descends below the western horizon. The precise moment of sunset can be determined by reference to various publicly available almanacs and newspapers of general circulation in Los Angeles.

The CCA and many of the BIDs favor a district-based model that allows communities to “opt-in” similar to the existing Special Sidewalk Vending Ordinance which would allow vending in specified areas of the City.

The Los Angeles Street Vendors Campaign, CHIRLA, the Los Angeles Food Policy Council, representatives from UCLA, USC and Occidental College oppose a district-based sidewalk vending model due to the potential challenges of enforcement within and outside the districts.

Of the cities surveyed, some established no-vending districts while others restricted vending to specified districts. Santa Ana for example allows permitted vending on sidewalks and within special districts. The number of permits outside the districts is capped at 178 plus an additional 120 for ice-cream carts. Santa Ana also limits vending in the Civic Center District to nine vendors and 13 in the Downtown District.

Should the Council wish to allow vending only in certain areas of the City, direction would be needed with regard to the method of developing the districts. The list of issues in Table 3 would be expanded to include additional guidelines to preapprove or prohibit vending in accordance with the guidelines. Options under a new district-based model include:

- Establish a new district development process (community-driven) with general rules and regulations as specified in Table 3.
- Establish a new district development process (City-driven) with general rules and regulations as specified in Table 3.
- Establish a new district development process driven by both the community and the City, with general rules and regulations as specified in Table 3.

Citywide and Special Districts

This model would allow for general vending on sidewalks citywide and allow for specialized restrictions within certain districts. This approach would allow communities to further enhance or restrict vending in their district. For example, a district may choose to allow a higher or lower number of vendors per block depending on the needs. A citywide stationary vending policy could allow roaming within a district. An area such as the flower district may want to prohibit flower vendors but encourage more fruit or food vendors, for example.

Some of the cities surveyed, such as Santa Ana, have a model that allows vending citywide and in special districts. Santa Ana issues 178 permits citywide with an additional nine permits in the Civic Center District and 13 in the Downtown District. Additionally, 120 citywide permits are issued for ice cream vendors.

ACTION 2: What model for a new sidewalk vending program should be adopted?

ACTION A: Citywide Model

Yes, the Council should adopt a citywide model and request: 1) CAO and CLA with the assistance of the Public Works Department, Bureau of Street Services to report with recommendations on the structure of this model, the costs, staffing and resources needed for the program, and specific rules and regulations for consideration by the Council; and, 2) the City Attorney, with the assistance of the Public Works Department, Economic and Workforce Development, the CAO, to prepare an amendment to the Los Angeles Municipal Code to allow vending on sidewalks citywide. The Council may wish to provide additional direction regarding the Rules and Regulations listed on Table 3 for inclusion in the requested report.

OR

ACTION B: Special District Model

Yes, the Council should adopt a sidewalk vending program that allows vending only in Special Districts and request: 1) CAO and CLA with the assistance of the Public Works Department, Bureau of Street Services to report with recommendations on the structure of this model, the costs, staffing and resources needed for the program, and specific rules and regulations for consideration by the Council; and, 2) the City Attorney, with the assistance of the Public Works Department, Economic and Workforce Development, the CAO, to prepare an amendment to the Los Angeles Municipal Code to allow vending only in Special Districts as follows:

- a) Establish a new district development process (community-driven) with rules and regulations as listed in Table 3.

OR

- b) Establish a new district development process (City-driven) with rules and regulations as listed in Table 3.

OR

- c) Establish a new district development process driven by both the community and the City, with regulations as listed in Table 3.

OR

ACTION C: Hybrid Model (Citywide and Special Districts)

Yes, the Council should adopt a sidewalk vending program that allows vending citywide and in Special Districts and request: 1) CAO and CLA with the assistance of the Public Works Department, Bureau of Street Services to report with recommendations on the structure of this model, the costs, staffing and resources needed for the program, and specific rules and regulations for consideration by the Council; and, 2) the City Attorney, with the assistance of the Public Works Department, Economic and Workforce Development, the CAO, to prepare an amendment to the Los Angeles Municipal Code to allow vending only in Special Districts as follows:

- a) Establish a new district development process (community-driven) with rules and regulations as listed in Table 3.

OR

- b) Establish a new district development process (City-driven) with regulations as listed in Table 3.

OR

- c) Establish a new district development process driven by both the community and the City, with rules and regulations as listed in Table 3.

3. Program Guidelines

As discussed previously, specific policy direction in certain areas would further develop a sidewalk vending program. While departments can report to Council with recommendations on some of these areas, direction from Council would assist departments with designing rules and regulations for Council consideration. For example, City staff can develop regulations related to licensing, operation and placement requirements. However, Council direction is necessary to determine the types of items that could be sold, the hours of operation, or whether vending should be stationary versus roaming. Table 3 shows the categories of rules and regulations that require further input. Some of these are fundamental policy questions and require guidance before the department can report with recommended rules and regulations.

ACTION 3: Should the Council provide guidance with regard to the following categories?

<u>ACTION A:</u>	Food	Merchandise	Both	None
<u>ACTION B:</u>	Roaming	Stationary	Both	None
<u>ACTION C:</u>	Permit Cap	No Cap		
<u>ACTION D:</u>	Commercial	Residential	Both	None
<u>ACTION E:</u>	Days and Hours of Operation	No Limit	Limit	Varies

If yes, the Council should instruct the CAO and the CLA to incorporate the Council's selections from above and any other specific requests relative to time, place and manner in the report requested in Action 2.

4. Monitoring and Compliance

Consideration of Enforcement Issues

The Los Angeles Police Department and the Department of Public Works (DPW) Bureau of Street Services (BSS) currently enforce LAMC Section 42.00 (b) which prohibits the sale of food and merchandise on City sidewalks. Both agencies have indicated that this law is only enforced on a complaint-basis.

Bureau of Street Services Enforcement

Representatives from BSS have indicated that there are four possible outcomes when addressing violations for street vending:

- 1) Verbal Warning
- 2) Written Warning
- 3) Notice of Administrative Hearing before the BSS
- 4) Citation (promise to appear in court)

With the Notice of Administrative Hearing, individuals appear before the BSS and efforts are made to resolve the issue. Depending on the circumstances, a citation may be issued for which the individual may be required to appear in court. Pursuant to LAMC Section 11(m), citations issued by BSS are filed as misdemeanors by the City Attorney. The City Attorney assesses the case and makes a determination of whether to file the case with the court. The court may dismiss the case, issue a fine of up to \$1,000 and/or require up to one year in jail. If the individual has an outstanding warrant or no identification, the outcome may result in the booking of the individual in a City jail.

Police Enforcement

According to the City Attorney, there are also four possible outcomes when individuals are found in violation of sidewalk vending laws by an officer of the LAPD:

- 1) Warning
- 2) Administrative Citation (ACE Program)
- 3) Release from Custody (RFC) – Notice to Appear
- 4) Booking/Physical Arrest

The Release from Custody is considered a Notice to Appear. If the Notice to Appear is not accompanied by a police report, the violation is considered an infraction and the court may impose a \$100 fine. If the Notice to Appear is accompanied by a police report, the violation is considered a misdemeanor and the court may issue a fine of up to a \$1,000 and/or six months in jail.

Citations issued by the Police Department for certain violations of the LAMC may be handled through the Administrative Citation Enforcement (ACE) Program. The ACE Program is an alternative method of enforcement for violations of the LAMC Code. These violations currently include sidewalk vending. Instead of a criminal citation or arrest where violators would be subject to criminal conviction with penalties that may include probation, fines and/or jail, violators receive an administrative citation which can be resolved through the payment of a fine and there is no resulting criminal record, probation, or threat of jail. However, non-payment of a fine could lead to a misdemeanor. At this time, the ACE Program is a pilot program in which only the Police Department and the Department of Animal Services participate.

In terms of citations, the BSS reports that in Fiscal Year 2013-14, a total of 412 citations were issued with higher concentrations in Council Districts 1, 9, and 14. The Los Angeles Police Department reports issuing nearly 900 RFC citations over the same period.

A proactive monitoring and compliance approach would require additional resources, including staff and equipment, depending on the type of program and the level of enforcement desired by the Council. In making such determination, the Council may wish to consider whether additional staff would be assigned to the Police Department or BSS. The Council may also wish to determine whether such staff should be assigned Citywide, in particular areas of the City, or a combination of both.

Both the Los Angeles Police Department and BSS have indicated that enforcement of sidewalk vending laws is of low priority when compared to more serious criminal and negligent activity. Other stakeholders have raised the issue that sidewalk vendors could be victims of extortion and other crime due to their vulnerability given their cash-only nature. Conversely in a 2015 report, the Economic Roundtable found there was no correlation between street vending and criminal activity.

In the event the Council decides to continue with the status quo, the Council may still consider modifying the current complaint-driven type and level of enforcement. The discussion below with regard to enforcement could be applied even if the Council chooses not to adopt a new sidewalk vending program.

Community Input

During the citywide community meetings, some individuals and organizations expressed concern that the City may not have the ability to appropriately enforce any sidewalk vending program given the amount of resources currently allocated. The CCA informed this Office that an efficient enforcement program would require sufficient dedicated enforcement staff to patrol sidewalk vending citywide 24 hours per day and seven days per week. CCA requests that the City designate one department to oversee all vending issues and that proactive enforcement should occur every day of the week and throughout the day and night. CCA also proposes that the enforcement agency be given the authority to confiscate illegal vending carts and to create a schedule of escalating fines and penalties for illegal vending.

The LA Street Vendors Campaign recommends a tiered compliance process beginning with warnings and resource referrals followed by reasonable fines for subsequent violations. The LA Street Vendors Campaign recommends that all sidewalk vending violations be treated as warnings or infractions and should not result in a misdemeanor offense. Suspension of a permit should only occur after four violations per year.

Other individuals and organizations expressed concern with the level of enforcement preliminarily proposed by the BSS consisting of a range of five inspectors for a complaint-driven program to 17 additional inspectors for a proactive enforcement program. These organizations expressed the need for humane enforcement.

The Criminal Defense Clinic of the UCLA School of Law prepared a report dated April 2015 which contains five recommendations for reform as follows:

1. Cease all sidewalk vending prosecutions until the City adopts new legislation.
2. Dismiss all pending sidewalk vending cases and bench warrants for failures to appear associated with those cases.
3. Offer a special four-hour-per conviction community service program for vendors with criminal justice debt from past Section 42.00 convictions.
4. Work with the Los Angeles Police Department to draft and implement a property seizure protocol for sidewalk vendors that complies with the Fourth Amendment and Due Process.
5. Collaborate with community stakeholders to develop a citywide regime for legal and regulated sidewalk vending.

For reference, a 1993 CAO report indicated that in addition to the Vending Administrator and a secretary, a staff of 14 positions would be required for enforcement of a sidewalk vending program consisting of up to 1,000 vendors. However, as part of the Mayor's 1993-94 budget reduction action approved by the Council on October 5, 1993, the fourteen positions in the Bureau of Street Maintenance and the clerical position in the Office of Vending Administration were eliminated.

The BSS, Investigation and Enforcement Division is responsible for enforcement of: 1) public right of way construction; 2) public health and safety; and, 3) community/event based operations. Eighteen investigators are assigned to special assignments which includes illegal vending on sidewalks. Current staff is assigned as shown on Table 4.

Table 4

Public Works Investigation and Enforcement Division			
Staff	District Assignments	Special Assignments	Total
Supervisors	4	2	6
Investigators	18	16	34
Total	22	18	40

Enforcement of New York City's regulations of where and when street vendors can operate is mainly a function of the police department. However, only in Manhattan is there a police unit specifically dedicated to enforcing street vending peddler regulations. A report by the New York City Independent Budget Office states that the unit includes 38 uniformed officers: 33 police officers, four sergeants, and a lieutenant. Street vending enforcement in the rest of the city is conducted as part of routine patrols. Aside from this action in New York, all other cities surveyed delegate the responsibility of enforcement as part of the duties of existing personnel. San Francisco recently changed the enforcement of street vending from the Police Department to the Public Works Department. Below is a table showing a preliminary Fiscal Impact provided by BSS. This data would have to be updated depending on the street vending program and level of enforcement desired by Council. Any change to the level of enforcement resources would be a budgetary issue to be taken up during consideration of the City's annual Budget.

Table 5

# of Investigators	Fiscal Impact
5	\$500,000
9	\$900,000
17	\$1.7 M

ACTION 4: Should the Council change the manner in which sidewalk vending is currently enforced?

ACTION A

If no, the Council does not wish to change the enforcement type and level, no further action is required.

OR

ACTION B

If yes, and a new sidewalk vending model is recommended: Instruct CAO, the Public Works, Bureau of Street Services, the Los Angeles Police Department, and the City Attorney to report on various levels of enforcement given the model selected in Action 2 (Options for a New Sidewalk Vending Program). The report should address staff and resources necessary for both a proactive monitoring and compliance model and a complaint-driven model.

OR

ACTION C

If yes, and no new sidewalk vending model is recommended: Instruct the CAO, Public Works, Bureau of Street Services, the Los Angeles Police Department, and the City Attorney to report on various levels of monitoring and compliance if sidewalk vending is prohibited. The report should include resources necessary for both a proactive monitoring and compliance model and a complaint-driven model.

5. Penalties

LAMC Section 42.00 (m) (25) provides for enforcement and penalties within Special Sidewalk Vending Districts. The BSS is tasked with enforcement. This Section stipulates that the first, second and third violations under this Section shall be infractions. The fourth violation within a two-year period would be a misdemeanor. Also, vendors could have their licenses suspended or revoked for violation of permit rules.

Pursuant to the LAMC Section 11 (m), illegal vending citations issued by BSS are filed as misdemeanors with the City Attorney. The City Attorney assesses the case and makes a determination as to whether to file the case with the court. The court may dismiss the case, issue a fine of up to \$1,000, and/or require up to one year in jail.

Under the ACE program, the City Attorney may impose a fee of \$250 for the first violation, \$500 for the second violation and \$1,000 for a third violation. These violations are infractions and can become misdemeanors if the fine is not paid. Between January 1, 2015 and October 19, 2015, the City Attorney has processed 203 administrative citations for illegal vending. Of those, 26 were rejected due to a determination made by the City Attorney, 22 requested an initial hearing of which six were dismissed, three were referred to the Neighborhood Justice Program, four requested an administrative hearing request (two were upheld and two are pending). Of the 203, 10 individuals are being processed for a second violation, and three are being processed for a third violation.

Citations not issued under the ACE program by the Police Department and those issued by BSS are referred to the court where they may be subject to dismissal, a \$1,000 fine and/or six months in jail.

Under the Venice Beach Boardwalk Ordinance (LAMC Section 42.15), the first violation may result in an infraction punishable by a fine of \$100. Second and subsequent violations could result in either an infraction punishable by a fine of up to \$250 or a misdemeanor punishable by a fine of \$1,000 or six months in jail.

City of Austin sidewalk vending violations constitute a misdemeanor which is punishable by a \$500 fine. Chicago imposes a fine of \$300 for first offense and \$500 for subsequent offenses. New York City's Environmental Control Board hears vendor disputes and levies fines related to infractions. Philadelphia levies a \$300 fine for violations related to unlicensed vending. In Portland, Oregon the City Engineer may suspend or revoke licenses and may impose fines for violations of up to \$500. San Francisco fines can reach up to \$5,000 per day per violation if violations are not corrected. In Santa Monica, violations may result in an infraction punishable by a fine not to exceed \$250 per violation. A violation for operating without a permit may result in a misdemeanor punishable by a fine not to exceed \$1,000.

Representatives from the CCA indicated that a robust enforcement program with 24 hour surveillance 7 days per week would be necessary to support a citywide sidewalk vending program. The CCA further requests that the City create a schedule of escalating fees and that permit suspensions be included in the model.

The LA Street Vendors Campaign and CHIRLA request a fair and humane enforcement strategy that encourages compliance with a tiered penalty system that begins with warnings and resource referrals followed by fines for subsequent violations and recommend that all violations be treated as infractions. Also the LA Street Vendors Campaign call for a phased-in compliance program to accommodate a period of public education about the new regulations and requirements.

The UCLA School of Law report recommends that the City offer a community service program to satisfy the debt incurred by sidewalk vendors and that the City explore new property confiscation protocols. The LA Street Vendors Campaign has also suggested that the City consider a "community service" option for sidewalk vending violations.

ACTION 5: Should the penalty amounts for sidewalk vending violations be changed?

ACTION A

If yes, request the City Attorney, with the assistance of the Public Works Department, Bureau of Street Services, LAPD and the CAO, to report with options to decrease or increase the penalty amounts and the penalty structure, including warnings, community service, escalating penalties, infractions, confiscation, license revocation and suspension, and differential fine amounts for licensed sidewalk vendors and unlicensed sidewalk vendors.

OR

ACTION B

If no, no further action is required.